

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 955 (M/S) 2002

Smt. Raj Rani.

----- Petitioner

Vs.

Addl. Commissioner (Administration),
Garhwal Mandal, Pauri
And another.

----- Respondents.

Hon'ble P.C.Verma, J.

Heard Sri Arvind Vashishtha, learned counsel for the petitioner and Sri B.S. Verma learned counsel for the respondent No. 2.

This writ petition has been filed by the petitioner challenging the order dated 09.05.2003 passed by the Addl. Commissioner (Administration) Pauri in Civil Revision No. 13/2000 and order dated 04.07.2002 passed by the Assistant Collector, Ist Class, Rishikesh, Dehradun in case No. 5/2001 in a correction proceedings under 33/39 of the Land Revenue Act.

The name of the petitioner was recorded on the basis of succession claim, filed by him, over the land in dispute, which was already transferred by a valid sale-deed in favour of the respondent. This fact came in the notice of the parties concerned; hence they have applied for correction of the order.

Since the land in dispute has already sold by the person from whom the petitioner claims succession, the name of the petitioner could not have been recorded after the death of the vendor. Therefore, order for recording the name of the petitioner was void and was passed by mistake in ignorance of the fact of the sale-deed in favour of the respondent by the husband of the petitioner. It is a case of correcting the mistake. The Trial Court has rightly held that in case of void order natural justice was not attracted as held in Revenue Judgment 1991, page 399 Rama Shankar Vs. State. I find no other infirmity or illegality in the order. Therefore, I am not inclined to interfere with the order by this petition. However, it is open for the petitioner to get his title declared under Section 229-B of the U.P. Z.A & L.R. Act, if the petitioner feels that he has a valid title.

Learned counsel for the petitioner has submitted that status-quo may be granted and in the meantime he may be permitted to file suit under Section 229-B of U.P.Z.A. & L. R. Act.

Since, the proceedings under Section 33/39 of the Land Revenue Act are summary in nature, it is open for the petitioner to get his title declared by filing a suit under Section 229-B of U.P.Z.A. & L. R. Act. If he feels that he has title over the land in dispute, which entitles him to get his name recorded, he can file such suit. If such suit is filed within a period of three months from today, the same shall be decided by the S.D.M. concerned within a period of three months, after filing of the suit. In the meantime, till the decision in the suit, the parties shall maintain status-quo.

The petition is disposed of accordingly.

(P.C.Verma, J.)

October 9, 2003:

NCM: